IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

CRL.A.No. 299 of 1999(C)

ST.245/1995 OF CHIEF JUDICIAL MAGISTRATE'S COURT, ALAPPUZHA.
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APPELLANT/COMPLAINANT:

V.H. ABDUL KHADER,
VATAYALUNKAL,
MANNANCHERI.P.O.,
ALAPPUZHA.

BY ADV. M/S M.N.S.NAYAR & CO.,

RESPONDENTS/ACCUSED & STATE:
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1. **K. SHERAFUDEN,**
   PROPRIETOR, SHEEBA CASHEW COMPANY,
   MAMOOD, CHANDANATHOPPU, KOLLAM.

2. **STATE OF KERALA, REPESENTED BY**
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.C. SANTHOSH KUMAR.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl.Appeal No.299 OF 1999

Dated 7th February, 2007

JUDGMENT

The appellant filed a complaint alleging that cheque dated 30.1.1995 for a sum of Rs.37,000/= drawn by the first respondent/accused in favour of the complainant was dishonoured for insufficiency of funds. Therefore, after fulfilling statutory formalities he filed the complaint. According to the appellant/complainant, the cheque was issued for the cashew nuts purchased by the accused. During cross examination, complainant admitted that he was not having any accounts with him regarding the transaction and he was not keeping any accounts regarding his business. Even though he stated that he has got licence to do business of cashew nuts, that was also not produced. Further, the procurement or storage of cashew nuts by private parties was prohibited under the Kerala Raw Cashewnuts (Procurement and Distribution) Act, 1981 and such transactions were prohibited at the time of issuance of the cheque. In any event, the appellant/complainant was not maintaining any accounts and the court below found that the complainant failed to prove that the cheque was issued for a legally enforceable debt. This is a possible view. When the court below takes a

possible view in acquitting the accused, appellate court cannot interfere in the same. Apart from the above, I note that notice was ordered as early as on 21.6.1999, but it is not served so far. On 1.11.2006 it was submitted that a week's time is required for curing the defects. No steps were also taken so far for curing the defects. Without service of notice to the accused, order of acquittal cannot be interfered. In any event, there is no merit in the appeal.

The appeal is dismissed.

J.B.KOSHY
Judge

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